

§ 5.61

of law or fact determinative of the respondent's guilt remains to be decided.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

§ 5.61 Acts or offenses for which revocation of credentials is sought.

(a) An investigating officer seeks revocation of a respondent's credential or endorsements when one of the following acts or offenses is found proved:

- (1) Assault with a dangerous weapon.
- (2) Misconduct resulting in loss of life or serious injury.
- (3) Rape or sexual molestation.
- (4) Murder or attempted murder.
- (5) Mutiny.
- (6) Perversion.
- (7) Sabotage.
- (8) Smuggling of aliens.
- (9) Incompetence.
- (10) Interference with master, ship's officers, or government officials in performance of official duties.
- (11) Wrongful destruction of ship's property.

(b) An investigating officer may seek revocation of a respondent's credential or endorsements when the circumstances of an act or offense found proved or consideration of the respondent's prior record indicates that permitting such person to serve under the credential or endorsements would be clearly a threat to the safety of life or property, or detrimental to good discipline.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

§ 5.65 Commandant's decisions in appeal or review cases.

The decisions of the Commandant in cases of appeal or review of decisions of Administrative Law Judges are officially noticed and the principles and policies enunciated therein are binding upon all Administrative Law Judges, unless they are modified or rejected by competent authority.

§ 5.67 Physician-patient privilege.

For the purpose of these proceedings, the physician-patient privilege does not exist between a physician and a respondent.

46 CFR Ch. I (10-1-09 Edition)

§ 5.69 Evidence of criminal liability.

Evidence of criminal liability discovered during an investigation or hearing conducted pursuant to this part will be referred to the Attorney General's local representative or other appropriate law enforcement authority having jurisdiction over the matter.

§ 5.71 Maritime labor disputes.

Under no circumstances will the Coast Guard exercise its authority for the purpose of favoring any party to a maritime labor controversy. However, if the situation affecting the safety of the vessel or persons on board is presented, the matter shall be thoroughly investigated and when a violation of existing statutes or regulations is indicated, appropriate action will be taken.

Subpart D—Investigations

§ 5.101 Conduct of investigations.

(a) Investigations may be initiated in any case in which it appears that there are reasonable grounds to believe that the holder of a credential or endorsement issued by the Coast Guard may have:

(1) Committed an act of incompetency, misconduct, or negligence while acting under the authority of a credential or endorsement;

(2) Violated or failed to comply with subtitle II of title 46, U.S.C., a regulation prescribed under this subtitle, or any other law or regulations intended to promote marine safety or to protect the navigable waters, while acting under the authority of a credential or endorsement;

(3) Been convicted of a dangerous drug law violation, or has been a user of, or addicted to the use of, a dangerous drug, so as to be subject to the provisions of 46 U.S.C. 7704.

(b) In order to promote full disclosure and facilitate determinations as to the cause of marine casualties, no admission made by a person during an investigation under this part or part 4 of this title may be used against that person in a proceeding under this part, except for impeachment.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]